

CALIFORNIA RESOURCES AGENCY PUBLIC RECORDS ACCESS GUIDELINES

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The California Legislature has declared that access to information concerning the conduct of the people's business is a right of every person in this state. The California Public Records Act, Government Code Section 6250, *et seq.*, requires public records to be available to the public upon request. Resources Agency has established the following guidelines to ensure that members of the public fully understand and are afforded the opportunity to use their right to inspect and obtain copies of public records. A copy of these guidelines is posted in the lobby of the Resources Agency Office. A copy of these guidelines will be provided free of charge upon request.

WHAT ARE 'PUBLIC RECORDS'?

"Public records" include any writing containing information relating to the conduct of the public's business prepared, owned, used or retained by Resources Agency regardless of physical form or characteristics.

"Writing" means handwriting, typewriting, printing, photostating, photography, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds or symbols or any combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

'Member of the public' means any person, except a member, agent, officer, or employee of federal, state, or local agency acting within the scope of his or her membership, agency, office, or employment.

WHEN MAY PUBLIC RECORDS BE INSPECTED?

Public records are open to inspection during Resources Agency office hours, 8:30 a.m. – 11:30 a.m. and 12:30– 4:30 p.m., Monday through Friday, except for state holidays. The inspection of public records is subject to a rule of reason as to time and duration and must be consistent with the efficient functioning of the Resources Agency office. Resources Agency requests any person who wishes to inspect public records to telephone the Resources Agency to schedule an appointment to inspect the records. It is the policy of the Resources Agency that records not exempt from disclosure by state law will be open for public inspection with the least possible delay and expense to the requesting party. However, many records maintained by Resources Agency must be reviewed for exempt documents before being made available for public inspection.

Persons inspecting Resources Agency records shall not destroy, mutilate, deface, alter, or remove any such records from the Resources Agency's office. The Resources Agency reserves the right to have Resources Agency staff present during the inspection of records in order to prevent the loss or destruction of records.

California Resources Agency
PUBLIC RECORDS ACCESS GUIDELINES

(4/6/2006) Page 2

HOW THE PUBLIC MAY OBTAIN ACCESS TO PUBLIC RECORDS?

All requests for records are directed to the Office of the General Counsel for review and advice. When a request for documents or records is received, it will be immediately delivered to the Office of the General Counsel.

Mary Akens, Assistant General Counsel
FAX: 916-653-8123
TEL: 916-653-5656

EMAIL: mary.akens@resources.ca.gov

It is important to include the following information in your request, so that we may answer your request in a timely manner:

- A statement that you are requesting information under the PRA.
- A clear and specific description of the information you are requesting. If possible, identify dates, subjects, titles, or authors of the documents requested.
- Your contact information, including name, address, phone, fax, and email.

Within 10 days from the date the request is received, the Resources Agency will determine whether the request, in whole or in part, seeks copies of disclosable public records in the Resources Agency's possession and notify the requestor of such determination. In unusual circumstances, the 10-day time limit for making such determination may be extended up to 14 days by written notice by the Resources Agency to the requestor, setting forth the reason for the time extension. Unusual circumstances include:

- (1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;
- (2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request;
- (3) The need for consultation, which will be conducted with all practicable speed, with another agency having substantial interest in the Resources Agency's determination of the request or among 2 or more components of the Resources Agency having substantial subject matter interest therein;
- (4) The need to compile data, write programming language or a computer program, or construct a computer report to extract data. The Resources Agency's may request additional information if the request is not specific enough to permit identification of the requested records. If the Resources Agency determines it will comply with the request, the records will be made available as promptly as is reasonably practicable. While the Resources Agency will disclose identifiable and existing records, the Resources Agency is not required to synthesize, manufacture, or summarize records, i.e., develop new records in response to a request.

Records in Electronic Format

Upon request, the Resources Agency will make available any public record in electronic format in any electronic format in which the Resources Agency holds the information or in the format

California Resources Agency
PUBLIC RECORDS ACCESS GUIDELINES
Page 3

requested if the requested format is one that has been used by the Resources Agency to create copies for its own use or for provision to other agencies.

WILL THERE BE A FEE?

A request for a copy of an identifiable public record or information produced therefrom must be accompanied by payment of fees to cover the direct costs of duplication, which will be based on a fee of \$.05 per standard reproduced page.

Fees for Records In Electronic Format

The requestor shall bear the direct costs of duplication of producing a copy of a record in electronic format and shall also bear the costs to construct a record and the programming and computer services necessary if:

- (1) The Resources Agency is required to produce a copy of an electronic record and the record is one that is produced only at otherwise regularly scheduled intervals or
- (2) The Resources Agency is required to perform data compilation, extraction, or programming to produce the record.

WHAT WILL THE RESOURCES AGENCY'S RESPONSE TO A RECORDS REQUEST INCLUDE?

In responding to information requests, the Resources Agency will advise the person submitting the request, by telephone or by mail as appropriate, of:

- (1) The location, date, and time at which the requested records may be inspected;
- (2) If copies of records are requested, the cost of providing such copies; and/or,
- (3) Will provide an indication as to the category of records that are not subject to disclosure as public records pursuant to applicable provisions of the California Public Records Act.

WHAT RECORDS ARE NOT OPEN FOR INSPECTION?

In balancing the public's right to access public records with the recognized individual right of privacy and the need for the Resources Agency to be able to competently perform its duties, the Legislature has established certain categories of records, which may be exempt from public disclosure.

A complete list of statutory exemptions is found in the California Public Records Act. Records exempt for disclosure that pertain to the Resources Agency include, but are not limited to, the following:

- a. Preliminary drafts, notes, or inter-agency or intra-agency memoranda which are not retained by the Resources Agency in the ordinary course of business, provided that the public interest in withholding such records clearly outweighs the public interest in disclosure;

California Resources Agency
PUBLIC RECORDS ACCESS GUIDELINES

Page 4

- b. Records pertaining to pending litigation to which the Resources Agency is a party, or to claims made until such litigation or claim has been finally adjudicated or otherwise settled;
- c. Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy;
- d. Records of complaints to or investigations conducted by the Resources Agency for law enforcement purposes;
- e. Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examinations;
- f. Contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the Resources Agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained;
- g. Records of which the disclosure is exempt or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege;
- h. Correspondence of and to the Governor or employees of the Governor's Office or in the custody of or maintained by the Governor's legal affairs secretary; and,
- i. Records that relate to archeological site information.

RECORDS SUBJECT TO EXEMPTION

The Resources Agency may claim an exemption from public disclosure records which do not qualify for a specific exemption under the California Public Records Act but which the Resources Agency determines the public interest served by not making the record public clearly outweighs the public interest served by disclosure. Records subject to exemption may nevertheless be made available for inspection if waiving the exemption will serve the public interest, as determined by the Resources Agency on a case-by-case basis. However, the Resources Agency's determination to disclose a record, which may otherwise be exempt from disclosure, does not constitute a waiver with respect to any other records.

WHAT IF A MEMBER OF THE PUBLIC WISHES TO CHALLENGE THE RESOURCES AGENCY'S DETERMINATION NOT TO DISCLOSE RECORDS?

Under the California Public Records Act, Government Code Section 6258, any person may seek injunctive or declarative relief in any court of competent jurisdiction to enforce the right to inspect or to receive a copy of any public record.